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Director

The Commonwealth of Massachusetts

Office of Campaign & Political Finance

One Ashburton Place, Boston 02108

727-8352

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AO-88-17

Richard A. Kraus
635 Massachusetts Avenue
Suite 9
Arlington, MA 02174

Dear Senator Kraus:

This letter is in response to your request for an advisory opinion.

You have stated that one of the people whom you would like to have serve on your finance committee is an elected member of the Lexington school committee. The individual in question is not otherwise employed by the commonwealth or by a municipality. School committee members in Lexington receive no compensation for serving on the school committee, but, for the purposes of providing liability insurance to school committee members only, Lexington defines such members as town employees.

You have asked whether Section 13 of M.G.L. c.55 would be applicable to the school committee member you wish to serve on your finance committee.

Section 13 of M.G.L. c.55 states, in pertinent part:

"No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but this section shall not prevent such persons from being members of political organizations or committees. The soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of a person so employed for compensation by the commonwealth or any county, city or town, shall not be deemed to be a

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direct or indirect solicitation or receipt of such contribution by such person; provided, however, that no such gift, payment, contribution, assessment, subscription or promise of money or other thing of value may be solicited or received on behalf of such a person from any person or combination of persons if such person so employed knows or has reason to know that the person or combination of persons has an interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is the subject of his official responsibility."

It is the opinion of this office that the school committee member is an elected official of the town of Lexington and not a person "employed for compensation" by the town of Lexington. The school committee member would not, therefore, be subject to the provisions of section 13 of M.G.L. c.55.

We would alert you, however, to Section 15 of M.G.L. c.55, which states in pertinent part:

"No officer, clerk or other person in the service of the commonwealth or of any county, city or town shall, directly or indirectly, give or deliver to an officer, clerk or person in said service, or to any councillor, member of the general court, alderman, councilman or commissioner, any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever."

This section would preclude the school committee member from delivering monies or checks directly to you, rather than a member of your political committee, as well as him receiving monies or checks from other persons, such as teachers, who are in the public service including the service of the town of Lexington.

You should also make the school committee member aware of the following provisions:

Section 16 of M.G.L. c.55 states: "No person in the public service shall, for that reason, be under obligation to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so."

Section 17 of M.G.L. c.55 states: "No officer or employee of the commonwealth or of any county, city or

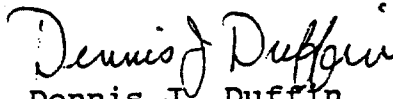
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town shall discharge, promote, or degrade an officer or employee, or change his official rank or compensation, or promise or threaten so to do, for giving, withholding or neglecting to make a contribution of money or other valuable thing for a political purpose."

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions.

Very truly yours,


Dennis J. Duffin
Director

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